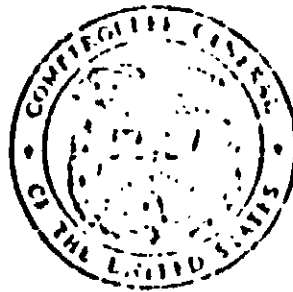


DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

Fileman
100835-

FILE: B-210009

DATE: December 23, 1982

MATTER OF: The Georgia Gazette Publishing Company

DIGEST:

Protest concerning the Army's award of a contract for the publishing of a civilian enterprise newspaper is dismissed since the contract does not involve the direct expenditure of appropriated funds.

The Georgia Gazette Publishing Company protests the award to the Coastal Courier for the publishing of a civilian enterprise newspaper at Fort Stewart, Georgia.

We dismiss the protest.

This Office considers protests of contract awards pursuant to its authority under 31 U.S.C. § 3526, Pub. L. No. 97-258, 96 Stat. 964, September 13, 1982 (formerly sections 71 and 74), to settle appropriated funds accounts of the Government. Thus, we generally consider protests of contract awards which involve the expenditure of appropriated funds. Fortec Constructors--Reconsideration, 57 Comp. Gen. 311 (1978), 78-1 CPD 153.

However, civilian enterprise publications are published by civilian publishers under contract with the Department of the Army at no cost to the Army. Army Regulation (AR) 360-81, 2-2(b), August 3, 1976. Although Army Public Affairs officers cooperate and work with the publisher, neither appropriated nor nonappropriated funds are paid to the publisher. Rather, the publisher is responsible for funding a civilian enterprise publication, normally through the sale of advertising. See AR 360-81, 2-23.

Therefore, since the award of the contract in question does not involve the direct expenditure of appropriated funds, we could not take legal exception to the award and thus no useful purpose would be served by our review. Barry Stier, B-201850, March 3, 1981, 81-1 CPD 160.

The protester argues that, even though appropriated funds are not involved here, we should nevertheless consider the merits of its protest. In support of this argument, Georgia Gazette cites our decision in the matter of Nathaniel and Bernice Pilate; Caroline J. Starkey, 53 Comp. Gen. 949 (1974), 74-1 CPD 317, where we reviewed the reasonableness of the Department of the Interior's award of use permits for the operation of citrus groves located on a National Wildlife Refuge--a situation which also did not involve the expenditure of appropriated funds. In Georgia Gazette's opinion, we should likewise review the reasonableness of the Army's procurement procedures in the award of civilian enterprise publications.

We do not agree. In Barry Stier, we were presented with the identical situation as Georgia Gazette's and dismissed the protest for the reasons noted above. Moreover, we find that Georgia Gazette's protest is clearly distinguishable from the Pilate; Starkey decision. There, the Government was entering into a business arrangement which would generate income for the Government (a percentage of the gross receipts from the sale of the fruit harvested from the citrus groves). In the Fort Stewart situation, on the other hand, the Army neither expends any appropriated funds nor receives any income in publishing the newspaper; in fact, its relationship with the newspaper is quite limited. Under these circumstances, we find no basis to take exception to our holding in Barry Stier.

Protest dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel